

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1858.—Ordered to be printed.

Mr. DURKEE made the following

REPORT.

[To accompany Bill S. 125.]

*The Committee on Revolutionary Claims, to whom was referred the memorial of the legal representatives of James Bell, late of Chambly, in the province of Lower Canada, deceased, beg leave to report :*

That they have examined this claim and found it to be just and equitable. They have also examined a report heretofore made on the same subject, April 9, 1856, by Mr. Durkee, of the Senate. That report they believe to be correct in argument, and just in conclusion, and therefore adopt it as their own. It is as follows :

IN THE SENATE, April 9, 1856.

*The Committee on Revolutionary Claims, to whom was referred the memorial of the legal representatives of James Bell, late of Chambly, in the province of Lower Canada, deceased, beg leave to report :*

That they have examined with great diligence and care the claim presented by the memorialists in their petition and accompanying documents, and find that it is just and sustained by satisfactory proof. This claim was brought to the attention of Congress as early as 1794, when a report in its favor was submitted to Congress by the committee to whom it was referred. Subsequently a favorable report was made to Congress on this case by Albert Gallatin, then Secretary of the Treasury. From this period until the death of Mr. Bell, in 1814, the claim was constantly prosecuted ; but after his death it was neglected by his children, until they learned that the statute of limitation enacted by Congress was no longer rigidly enforced, when they again brought it forward in the shape of a memorial to Congress. Few cases brought to the attention of the committee have commended themselves to their sense of justice more strongly than this. On the faith of a proclamation issued by Washington himself, and addressed to the people of Canada at the time of its invasion by General Montgomery, Mr. Bell not only furnished the troops with supplies of arms, pro-

visions, clothing, munitions of war, timber and cordage for the construction of a flotilla, but joined the army in person, and led the assault on Fort Chambly at the head of a company of volunteers, raised and equipped at his own expense. The fort was captured, and Mr. Bell was wounded; but his enthusiasm in the cause of liberty did not abate. His ample means were all at the disposal of the American army, and were contributed freely to ensure the success of the expedition under the orders of Montgomery. After the fall of that gallant leader under the walls of Quebec, and the retreat of the army, Mr. Bell was taken prisoner, and would have been executed as a traitor but for the influence of certain powerful friends in Scotland, which was successfully exerted with the British general in his behalf. Through their instrumentality he was released, but his fortune was gone, and the remainder of his life was passed in seeking the payment of his claim against the government. In 1814 he died in poverty, leaving his claim as a legacy to his children, who have been pursuing it for the last quarter of a century.

In 1834 an act was passed by Congress for the relief of Mr. Bell's heirs. This act directed the accounting officers of the treasury to settle the several accounts of James Bell on equitable principles, for moneys advanced, services rendered, and for stores, materials, and supplies furnished, &c., with a proviso, however, inserted by the Senate, that the sum allowed should not exceed \$5,727 03. In pursuance of this act the account was settled and found to amount to \$27,147 5+, which was made up of \$6,056 34 principal and \$21,091 20 interest. There was thus left due to the heirs a balance of \$329 31 principal, and \$21,091 20 interest.

That the claim was one on which interest was legitimately due, a reference to its character very clearly makes manifest. In almost all cases of like character interest has been paid by Congress. But should principal and interest both be paid, the committee doubt very much whether the memorialists will even then receive a sum equal to that which their ancestor expended in the first place. Your committee, however, do not feel authorized, in the computation of interest, to go further back than 1794, (eighteen years after the supplies were furnished and services rendered,) from the fact that they have no evidence before them that the claim was ever presented for payment until that time. This will reduce the interest as above stated about one-third. In the course of Mr. Bell's long imprisonment, and the compulsion he was under to keep his vouchers out of the sight of the enemy, by whom they would have been used as evidence against him, many of them, according to the proof before the committee, were lost or destroyed. It is therefore believed that a large portion of the original claim remains unsubstantiated in consequence of the loss and destruction of the vouchers. For this reason, amongst others, the committee are of opinion that the \$329 31, with interest thereon from the time of the former settlement, together with the balance of interest then remaining unpaid, are justly due the memorialists. They therefore report a bill in conformity with this view of the case, and annex to their report the reports of several committees, both of the Senate and House.

IN THE HOUSE OF REPRESENTATIVES, *February 8, 1849.*

Mr. BUTLER, from the Committee on Revolutionary Claims, made the following report:

*The Committee on Revolutionary Claims, to whom was referred the memorial of the legal representatives of James Bell, late of Chambly, deceased, praying the balance due from the United States, have had the same, with the accompanying documents, under consideration, and make the following report:*

The original merits of this claim have been heretofore examined by committees in the Senate and House, and reports fully setting forth the particular circumstances under which the claim arose, and scrutinizing its justness, have been made. The committee refer to a report made from the committee of the House by Mr. Young, January 16, 1834, and one by Mr. Leigh, in the Senate, February 2, 1835. No one can examine the documents and read these reports without being satisfied that the original claim was highly meritorious. The committee adopt these reports, and print them herewith.

On the 30th June, 1834, an act of Congress was passed for the relief of the heirs of James Bell, directing the proper accounting officers of the treasury to settle the several accounts of James Bell, late of Chambly, in the British province of Lower Canada, on equitable principles, for moneys advanced, services rendered, and for stores, materials, and supplies, &c., &c.; with this proviso, however, that the sum to be allowed said heirs shall not exceed the sum of five thousand seven hundred and twenty-seven dollars and three cents. In pursuance of this act, the account was settled by the accounting officers of the treasury, and a balance stated to be due from the United States of \$27,-147 54. This sum is made up of a balance of principal, \$6,056 34, ascertained on settlement by the officers of the Treasury Department of the accounts of James Bell, under the act of 1834, and interest on the same from the 15th June, 1776, the time of closing the account, to the 30th June, 1834, the time of the settlement and statement of the balance due, by the Auditor, as appears from a certified copy of the account submitted to the committee.

By this act of 1834 the "proper accounting officers of the treasury" were made the arbitrators between the claimants and the United States, and their decision is in the nature of a judgment against the party found to be indebted. Of the amount found to be due the United States have paid a part only of the principal, and none of the interest. A balance of \$329 31 of the principal is unquestionably due, but the interest has not been allowed, because, it is said, the act of 1834 does not authorize it. The act of 1834 says nothing about interest, and therefore, in terms, does not exclude it; and the committee think that a settlement of the accounts in pursuance of that act would give the claimants interest. In the first place, the claim is of a highly meritorious character, being "for moneys advanced, services rendered, and for stores, materials, and supplies of various kinds fur-

nished, &c., by him (James Bell) to the troops of the United States, and for the construction of vessels of war, and for wood for the garrison, including timber, taken to Ticonderoga, and excluding the charge for loss on continental money." Over two thousand dollars of the items allowed is for "money advanced," and the residue is for "supplies" principally. In the next place, the act directs that the accounts shall be settled "on equitable principles." This direction surely would not be complied with if interest were disallowed. It would be inequitable and unjust to refuse it. Debts due from individuals bear interest, and why should not the debts of the government? And in this case, in order to do justice, it is particularly necessary to allow interest, for it is the fault of the government, and not of the claimant, that the principal was not paid long since. The claim was presented as early as 1794, and faithfully pursued until at last a settlement was made and the balance ascertained, which balance was as justly due on the 15th June, 1776, as it was on the 30th of June, 1834, when the account was stated.

It is believed, also, that interest is due according to the laws of Congress and the practice of the Treasury Department. It is stated, in a compilation of the resolves and acts of Congress, called revolutionary claims, made by order of Congress, that, "by the laws or resolutions of the old Congress, *interest* was allowed on all claims, and to all creditors of the United States, from the time payment became due. There are a great number of resolutions of Congress to this effect. Reference is, however, particularly made to that of 3d of June, 1784."—(See journals of old Congress, vol. 4, page 443.)

The resolution referred to is in these words, viz: "That an interest of six per cent. per annum shall be allowed to all creditors of the United States for supplies furnished, or services done, from the time the payment became due."

Many cases are enumerated in which interest has been allowed.

Nineteen cases, among which was the one now under consideration, passed the House of Representatives at the 1st session 24th Congress, with *interest*. These bills passed the Senate during the last two days of the session, but with regard to interest it was agreed, as it is said, that the interest should be stricken out, *without prejudice to the rights of the parties*, each to be adjusted thereafter according to its merits, or by general rule, if any should be adopted. On most of these cases interest appears to have been subsequently allowed; and in the case of James Bell, at the 2d session 23d Congress, a bill was reported in the Senate for the interest on the claim, but was not acted on. The bill was renewed the 2d session of the 24th Congress, passed the Senate, but was not finally acted on in the House.

It is stated in the compilation before referred to, which was made in pursuance of a resolution of 11th April, 1836, that seventeen hundred and fifty-four cases had been allowed *with interest*, and fifty-four without interest.

It appears, also, from a report of the Register of the Treasury, made in 1836, that all certificates of public debt issued by the Register of the Treasury, by the commissioner of army accounts, and by the commissioners for settling the accounts of *individuals* in the several States,

and in the quartermaster's, commissary's, marine, and clothing departments, for *services rendered* or supplies furnished during the war of the revolution, or in fulfillment of promises contained in any ordinance or resolution of the old Congress, were on interest at six per cent. from the termination of the service, or from the time the supplies were furnished.

The committee being of the opinion that the balance of the principal, viz: \$329 31, and the interest, as originally stated by the accounting officer, ought to be paid to the legal representatives of James Bell, report a bill accordingly.

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IN SENATE OF THE UNITED STATES, *February 2, 1835.*

*The Committee on Revolutionary Claims, to whom was referred the memorial of Daniel Cameron and Margaret, his wife, legal representatives of James Bell, deceased, report:*

That William Bell and the memorialist, Margaret Cameron, claiming, as the only children and heirs-at-law of James Bell, late of Chambly, in the province of Lower Canada, deceased, preferred their petition to the House of Representatives at the last session of Congress, praying remuneration and compensation for advances of money, supplies furnished, and services rendered by their father, James Bell, to and for the American army in Canada, from the fall of the year 1775, till June, 1776. The merits of the claim seem to have been examined very carefully by the Committee on Revolutionary Claims of that House, which made a full and detailed report on the subject. Upon the case stated in that report, the committee recommended, and the House passed a bill providing for the adjustment of the claim by the proper officers of the treasury, and for payment of the principal sum which should be found due, with interest thereon from the time when the debt accrued. When this bill came to the Senate it was so amended as to provide that not more than \$5,727 03 of the principal should be paid, and to disallow interest altogether; and with these amendments the act passed for the relief of the petitioners. Upon the adjustment of the account at the treasury, it was found that the principal sum justly due to the claimants was \$6,056 34, to which was applied the sum of \$5,728 03, appropriated by the act; leaving a balance of \$329 31 principal still due to the petitioners.

The memorialists now ask that the above balance of the principal, (\$329 31,) and the interest on the whole debt originally due them, computed from the time the claim accrued, may be allowed and paid them.

The report made by the Committee on Revolutionary Claims of the House of Representatives at the last session on this claim is hereto appended. By that report it appears that moneys were advanced, and sundry supplies furnished by the said William Bell, deceased, to the American army in Canada, between the fall of the year 1775, and June, 1776; and that he also rendered personal services, exposing himself to great losses, to imprisonment, and jeopardy of life. That he took the earliest opportunity practicable to present his pecuniary claims to Congress. That probably the claim and the proofs of it



were in fact lodged in the public offices shortly after the peace. That in 1794 Mr. Bell came from Canada to Philadelphia, to attend to the claim in person, and obtain payment of the debt due to him, and found at the treasury no obstacle to his claim but the then statute of limitations. That he thereupon applied to Congress for relief, and though the committee to which the claim was referred reported that, from the particular situation of the claim, and its high merits, the statute of limitations ought to be waived in regard to it, the session passed off without any provision being made for the satisfaction of it. That Mr. Bell afterwards appointed an agent to prosecute the claim for him, who frequently presented it to Congress. That in 1802 a very favorable report was made on it to the House of Representatives by Mr. Gallatin, then Secretary of the Treasury, to whom it was referred; but that report, after suggesting reasons for believing that Mr. Bell had used, perhaps, all means in his power to obtain an early settlement of his claim, referred the expediency of opening the statute of limitations back again to Congress. That the claim was again presented to Congress in 1810, and repelled only on the ground of the statute of limitations. That Mr. Bell died in 1814, and that his children never presented the claim until they found that the policy of the statute of limitations was no longer rigidly enforced, but, on the contrary, was entirely disregarded.

Upon this state of facts, approved as just and true by both Houses of Congress in the act passed for paying claimants their principal, it seems to your committee that the government ought to have made provision for the satisfaction of the claim, with interest from the time it accrued, as soon as it was presented, which, it is admitted, was probably early after the peace. That provision ought to have been made for the payment of the principal, with like interest, in 1794, in 1802, and in 1810, when the claim was presented to Congress and its justice admitted. And that in rendering justice to the claimants at the late day at which it was at last proposed to be rendered to them, it behooved Congress to render full justice; that is, pay the claimants the principal due to them, with interest thereon from the time the debt accrued.

Therefore, the committee report a bill, providing for the payment of the balance of the principal due the memorialists, and of the interest stated by the officers of the treasury to be due on the whole amount of the principal debt.

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IN THE HOUSE OF REPRESENTATIVES, *January 16, 1834.*

Mr. YOUNG, from the Committee on Revolutionary Claims, made the following report :

*The Committee on Revolutionary Claims, to whom was referred the petition of William Bell and Margaret Cameron, (wife of Daniel Cameron,) only children and heirs-at-law of James Bell, late of Chambly, in the province of Lower Canada, report :*

This claim having been of long standing, and its merits, as presented, depending, in some measure, on the peculiar circumstances

attending its origin, progress, and continuance, the committee deem it their duty to the House to give the facts connected with it somewhat in detail.

The petition states, in substance, that in the fall of the year 1775, when the advance of the army of the United States entered Canada, James Bell, the father of the memorialist, resided at Chamble, or Chambly, in that province, doing business as a merchant; that when the troops entered the province, a proclamation, in the name of General Washington, was distributed among the inhabitants, desiring them to remain in quietness at home, or join the army and assist in the cause of liberty. The proclamation also invited the inhabitants to furnish "such supplies as the country afforded," and pledged, not only the government of the United States, but General Washington himself, in express terms, that "ample compensation" should be made.

Relying on the proclamation, and inclined to the spirit of freedom, Mr. Bell immediately attached himself to the cause and fortunes of the United States, and, during the night, assisted in raising those volunteers which it is well known constituted the principal force in the attack on Fort Chambly, and before daybreak joined the very inadequate force which had arrived there under Major Brown; and, being well acquainted with the fortification, led the way in the assault, which soon terminated in the capture of the fort, and the surrender of the garrison prisoners of war.

Mr. Bell having now forfeited the favor of the friends of the crown, and staked his all in the issue of the struggle, yielded not only his own personal services, but his whole means and credit, to aid and sustain the invading army.

General Montgomery, arriving there soon after, employed Mr. Bell in transporting his boats from Lake Champlain to the St. Lawrence, at La Prairie, and, before he left that vicinity, from a knowledge of his zeal, activity, and usefulness, constituted him a kind of public agent to superintend the artificers employed in repairing the fortifications there, and to procure the materials, and also to procure materials for building certain gondolas and other boats ordered to be built by a resolution of Congress, in which service he was afterwards continued by regular appointments from General Wooster and other general officers, till the final departure of the United States troops from that place in June, 1776; during all which time, in addition to his personal services, he furnished supplies to the garrison, of almost every kind, from his own store in the neighborhood, together with many materials for the purposes before mentioned, and for a considerable time paid the workmen under his superintendence out of his own funds. And these services, supplies, and advances, together with the expense in the transportation of the boats to the St. Lawrence, as before mentioned, constitute the claim now under consideration. The representation that Mr. Bell assisted in raising the volunteers, and led the army in the assault, is not expressly stated in the testimony; but his zeal, activity and readiness to *do* and *supply* everything in his power, is very fully and distinctly proved, as well as implied, from the language and nature of the correspondence with him while thus employed.

All the other representations which are in any way material to a

general understanding of the claim, and its merits thus far, are confirmed by the history of those times—the proclamation of General Washington, on file with the petition, the correspondence of the officers of the army with Mr. Bell at the time, together with their special certificates to some of the larger items, and their general certificates since, embracing the whole time, and recognizing their general correctness.

The petitioners (by way of showing that their claim ought not to be prejudiced because payment has been so long deferred) further state, what is a well known fact, that our troops were unexpectedly under the necessity of abandoning and destroying the works at Fort Chambly, and other places, and of retreating with all despatch out of the province, leaving no time or opportunity for settling accounts. Mr. Bell, however, collected and arranged his papers as well as the circumstances would permit, overtook the retreating army at St. John's, and delivered over his accounts to General Hazen, who engaged to see them speedily adjusted and settled with the United States government, and the avails transmitted. This circumstance is of considerable importance in the further history of this case, and its claim to attention and favor is distinctly stated by General Hazen, with the particular circumstances of the manner of his adjusting and bestowing them for safekeeping.

A British force now took possession of Fort Chambly, and re-established the authority of the crown in that region, and Mr. Bell, as is alleged, and as might be well expected from his recent conduct, was immediately arrested for high treason and thrown into prison, and after a long confinement escaped with his life, through the intercession of some Scottish friends during a temporary relaxation of rigor, while Sir Guy Carlton was absent in England, and that on condition of his keeping himself in obscurity. As soon as peace was established between the two governments, and Mr. Bell was released from these embarrassments, he renewed his exertions to obtain compensation for his claims, and sent a power of attorney to General Hazen, with full powers to represent him and close his accounts with the United States; but, before anything was effected, General Hazen was seized with the dumb palsy, as is a well known fact, and continued for some years unable to either write or speak. Finding his affairs in this situation, in 1794 Mr. Bell came from Canada to Philadelphia, to attend to his claim in person with the government. But now he found his claim barred by the statute of limitations; and though it seems to be admitted that his account had been previously presented at the proper office, and during the suspension of the act of limitation, yet it was decided that the suspension could not be applied to him, as he was not an inhabitant of the United States. Mr. Bell then applied to Congress for redress, and though the committee to whom it was referred reported that, from the particular situation of the claim, and its high merits, the statute of limitations ought to be waived with regard to it, the session passed off, and Mr. Bell was obliged to return home, disappointed, discouraged, and poor, and unable afterwards to appear on Congress. He, however, appointed one Peter Mills his agent, and prosecute his claim, who, it seems by the files, frequently presented it to Congress, and in 1802 a very favorable report was made on it; the House of Representatives, by Mr. Gallatin, then Secretary of the



Treasury, to whom it had been referred ; but this report, after suggesting the reasons for believing that Mr. Bell had used, perhaps, all the means in his power for an early settlement of his claim, referred the expediency of opening the statute of limitations back on Congress again. In 1810 his claim appears again to be before Congress, and the claim again critically examined, and its merits earnestly urged ; but still the statute of limitations resisted every attack and every appeal. In 1814 Mr. Bell died in poverty, broken down with age, disappointment, and misfortune. His children, learning that the absolute dominion of the statute of limitations had been shaken, have taken courage and again presented this claim.

From a careful consideration of these facts the committee feel warranted in coming, in this stage of the investigation, to these general conclusions. In the first place that, in the language of Mr. Gallatin, in the report referred to, Mr. Bell "did, in the years 1775 and 1776, render services and furnish supplies to an indefinite extent and amount, to the continental army in Canada, and that it is probable that he has never received any compensation." And, in the second place, that the claims ought not to be prejudiced by this long lapse of time, "on account of," in the further language of Mr. Gallatin's report, "the precipitate retreat of the American army from Canada ; of the petitioner's being a resident in that province ; and of his having used, perhaps, the best means in his power, under those circumstances, to have his accounts settled at an early period."

Having come to these general conclusions, the committee will proceed to examine the items of the account and their vouchers more particularly. These several accounts, as before stated, extending during the whole time the American army had possession of Fort Chambly, are in separate bills, made up from one date to another, mostly under separate heads, according to the nature of the accounts, whether materials, advances, or supplies ; having also reference to the several officers who successively or occasionally had the command or direction of the plan or subject matter. They exhibit, also, the several items, with the date of delivery, and generally the person to whom delivered ; and in the case of the advances to the artificers, the days of service, the separate prices of each, together with the particular kind and plan of employment in which they were severally engaged ; in short, they exhibit every appearance of being from the original entries at the time, and the bills now exhibited appear, from various memorandums on them, and references to them in reports made, to be the claims as originally presented. Some of the more prominent items are certified by officers knowing to their delivery. General Hazen, Major Butterfield, Captain Hamtramck, and others, specify many of the articles Mr. Bell was in the habit of furnishing, and bear testimony to his readiness, at all times, to furnish whatever was in his power ; and each account is duly sworn to by Mr. Bell himself. This, it must be presumed, is a large amount of testimony his case was susceptible of ; for it will be detected that General Montgomery was slain in a few weeks after he left Fort Chambly ; General Thomas died in the spring, not long after he arrived in Canada ; General Wooster received his mortal wound early the next spring, and General Arnold was soon in a situa-

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tion not to be consulted on such subjects ; and it might be added, if necessary, that a number of officers, Major Butterfield and others, who had been on duty in that region, were prisoners to the British Colonel McLeon, for some time near the close of the campaign. General Thompson and Colonel Irwin were also made prisoners about the same time. By a resolution of Congress, the revolutionary officers in the southern department, or a portion of them, were permitted to substantiate their claims by their own oaths, from the necessity of the case, it being utterly impossible to procure regular vouchers to all their transactions in such a confused state of warfare as prevailed at many times in many places. Mr. Bell was also an officer in whom the government or its officers had placed special confidence, and was situated amidst similar, and in many respects greater difficulties. There seems to be no reason, therefore, why he should not receive similar privileges. In the case of the heirs of Francis Cazeau, settled as late as 1817, the precedent is much stronger in Mr. Bell's favor, being almost a parallel case in all parts. Mr. Cazeau was not a known officer, to be sure, but one in whom the government placed special confidence, as the testimony in his case shows ; his was then a single case like this. He resided in Canada, and had furnished supplies a part of the same time with Mr. Bell, for a portion of the army further down the St. Lawrence.

In the progress of this claim, the oath of Mr. Cazeau was directed to be received in support of it by a special resolve of Congress.

The committee have taken into consideration some objections that might arise in view of this claim.

It might be inquired, in the first place, why those supplies were so little connected with the proper contracting officers' accounts, and were not furnished through them. It appears, by the correspondence on file, and the style of the accounts seem to imply it, that a particular discretion was allowed to Mr. Bell, and confided to him ; and that, for certain reasons, probably on account of the state of things there—for the same appears in Mr. Cazeau's case—he was treated as somewhat independent of ordinary directions, as it appears that orders and directions were often given to him to be communicated, or not, as he might see fit, to the commanding officers at the fort. It may also be noticed here that it appears, incidentally, from the papers on file, that he had other transactions with the quartermaster, and that certain articles, which are proved by Mr. Bell's certificates to have been delivered to the garrison, are not charged in his present account, because they were to be accounted for by the quartermasters with whom he had in these cases contracted.

Again, it may be inquired whether it is possible or probable that the charges in question have remained unpaid. The facts just stated relieve the difficulty, in some measure, by showing that not all the supplies which Mr. Bell furnished at the time were charged or claimed in this account. And, as a more general consideration, it may be remembered that the testimony clearly shows that these accounts were delivered to General Hazen, at St. John's, at the time these services and supplies unexpectedly closed—an officer, probably, who knew as much about the account, and the state of things as they existed as any other, and that they have been claimed and insisted on, at short intervals.

ever since ; and what is more conclusive, were critically examined, as the papers show, at Philadelphia, in 1794, when the returns of the army, and the accounts of the disbursing officers, were then in existence, and any advances by them to Mr. Bell would have appeared as a part of these claims. Yet no one account, certificate, report, or examination, of which so many have been made in this case, under the scrutinizing feeling of those times, including the scrutinizing eye of office of Mr. Gallatin, has cast the least shade of suspicion or doubt on the genuineness and correctness of these accounts as presented, except in one item, and that the committee are not disposed to allow, not for any doubt of the accuracy of the charge itself, but on account of the settled practice of the government. This charge is for loss sustained on continental money paid him by the officers and others on their private accounts. The committee, therefore, under all the circumstances of this case, conclude that both justice and precedent, the pledge of General Washington, and the faith of the government, require that this case should now be settled at the proper offices where such claims are usually examined and settled.

The committee therefore report a bill in conformity with the principles expressed in this report.

